

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ALBERT LAMAR JONES, JR.,  
and ANESSA LA'ANDREA JONES, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANDREA KAYE MOSES,

Respondent-Appellant,

and

RORY DARNELL TEASLEY,

Respondent.

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UNPUBLISHED

June 5, 2007

No. 273641

Oakland Circuit Court

Family Division

LC No. 03-685603-NA

Before: Smolenski, P.J., and Wilder and Zahra, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) and (g). We affirm.

The trial court did not clearly err by finding at least one statutory ground for termination of respondent-appellant's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary conditions of adjudication were respondent-appellant's residing in a condemned and unfit house with the children and her inability to care for them due to depression. These conditions were certainly improved over the course of these proceedings, yet unfortunately continued to exist to an extent sufficient to pose significant barriers to reunification of the children with respondent-appellant. Although respondent-appellant obtained a two-bedroom apartment, the adequacy of the apartment remained in question because the trial testimony indicated that one or more of the adult children of respondent-appellant also resided there. The stability of the housing was problematic because respondent-appellant's income was only barely more than her rent, and she relied on her older children for financial assistance. Even at the time of the best interests trial, respondent-appellant had not obtained employment to enable her to adequately house and support the children.

The record is clear that respondent-appellant diligently addressed her mental health issues and successfully addressed a substance abuse problem that came to light subsequent to adjudication. However, her case manager at Community Network Services opined that, despite her remarkable progress she would not be able to provide proper care and custody for two other human beings. The foster care worker concurred in that assessment. The fact that respondent-appellant relies on her adult children for financial support, and has been unable to obtain employment and more suitable housing over the extended duration of this case despite extensive assistance, further suggests that she is only marginally able to care for herself, let alone two children. The evidence also reflected persistent problems in respondent-appellant's supervision and engagement with the children during visits. Taking all of this evidence together, we are not left with a definite impression that the trial court made a mistake by finding that respondent-appellant's inability to adequately house and care for the children continued to exist. MCL 712A.19b(3)(c)(i); *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

The trial court also did not clearly err by finding no reasonable likelihood that these conditions would be rectified within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i). All involved in this case agreed that respondent-appellant put forth maximum effort and made significant gains. Indeed, the referee declined to recommend the filing of a termination petition following the permanency planning hearing, presumably because the goal of reunification appeared within reach. However, despite her utmost efforts and extensive assistance, respondent-appellant was not able to rectify the conditions of adjudication during the lengthy duration of this matter. When the goal of reunification has not been reached after such a lengthy time despite the best efforts of all involved, it is not unreasonable to question whether reunification will ever be accomplished. Under these circumstances, we are unable to conclude that the trial court clearly erred by finding that there was no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time considering the ages of the children. *In re Terry*, *supra* at 22.

Respondent-appellant's contention that the agency did not make adequate or good faith efforts to address the barriers to reunification is not supported by the record. Respondent-appellant was referred to Jewish Vocational Services and Michigan Rehabilitation Services in or around July 2004. Nancy Nicholson of Michigan Rehabilitation Services took respondent-appellant out to apply for jobs and addressed housing and budgeting issues with her. Foster care worker Catherine Williams testified that she provided respondent-appellant with a list of all subsidized housing providers in Oakland County, and that the PRISM program also tried to help her find adequate housing. Ms. McDonald of Community Network Systems worked with respondent-appellant on submitting applications for subsidized housing and getting on wait lists. Respondent-appellant received ongoing assistance from her parenting instructor in addressing the goals of the parent-agency agreement. Contrary to respondent-appellant's contention on appeal, the record indicates that she was provided comprehensive support and assistance.<sup>1</sup>

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<sup>1</sup> Respondent-appellant also criticizes the foster care worker for requiring her to put forth a transportation plan for off-site visits, citing 42 USC 675(4)(A) (defining foster care maintenance  
(continued...)

Finally respondent-appellant contends, citing *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003), that termination was improper because she substantially complied with her parent-agency agreement. The Court in that case stated that a parent's compliance with the parent-agency agreement is evidence of her ability to provide proper care and custody for a child. *Id.* The referee in this matter remarked that "[t]he difficulty is that mother really has complied with the Case Service Plan." However, in addition to complying with the service plan, the parent must also adequately benefit from it. *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005). The trial court also noted that respondent-appellant had difficulty engaging the children, showed slow and inconsistent progress in working with employment agencies, and while she had obtained housing, issues remained regarding its stability. Thus, while understandably lauding respondent-appellant's efforts and gains, the trial court in effect found that she had either complied only partially with the parent-agency agreement, or had not adequately benefited from the services that were offered. As in *Gazella*, it appears that "she did not sufficiently benefit from the services offered to enable the court to find that she could provide a home for her children in which they would no longer be at risk of harm." *Id.* at 677. Under these circumstances, respondent-appellant's compliance with the parent-agency agreement does not preclude the termination of her parental rights.

We also affirm the termination of respondent-appellant's parental rights under MCL 712A.19b(3)(g). Respondent-appellant clearly failed to provide proper care and custody for the children by living with them in a condemned house. The same evidence indicating that the conditions of adjudication continued to exist and there was no reasonable likelihood that those conditions would be rectified within a reasonable time considering the ages of the children, MCL 712A.19b(3)(c)(i), equally demonstrates that there is no reasonable likelihood that respondent-appellant will be in a position to provide proper care and custody for the children within a reasonable time considering their ages. MCL 712A.19b(3)(g).

The trial court did not clearly err by finding that termination of respondent-appellant's parental rights was not clearly contrary to the best interests of the children. MCL 712A.19b(5). Although the children asked about respondent-appellant, they both expressed reservations about living with her and both requested that they remain in foster care. Although respondent-appellant clearly made great progress in some areas, she seemed unable to attain the stability in housing and employment that would allow the children to be returned to her care. Finally, we are not persuaded that the trial court relied unduly on the testimony of Wayne Macintosh, which respondent-appellant criticizes as speculative. Indeed, the court noted the somewhat speculative

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payments to cover "reasonable travel to the child's home for visitation"). Because respondent-appellant did not put forth any plan, she continued to visit with the children at the agency rather than having less structured, off-site visits. The trial court did note respondent-appellant's failure to provide a transportation plan, apparently considering it an indicator of her inability to plan and take initiative. Substantial other evidence reflected this characteristic of respondent-appellant, for example, testimony that she failed to take the initiative concerning housing and employment and still was not employed at the time of the best interest hearing. Therefore, **even if** the agency acted incorrectly in this regard, it does not appear that the outcome of the case was affected.

nature of his testimony and remarked that the most important statements came from Ms. Williams.

Affirmed.

/s/ Michael R. Smolenski

/s/ Kurtis T. Wilder

/s/ Brian K. Zahra